

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

RICHARD L. SNYDER,)	
)	C.A. No. 06A-06-003 (JTV)
Appellant,)	
)	
v.)	
)	
QUICKSILVER TRUCKING and)	
UNEMPLOYMENT INSURANCE)	
APPEAL BOARD,)	
)	
Appellees.)	

Submitted: October 27, 2006

Decided: January 31, 2007

Richard L. Snyder, Dover, Delaware. *Pro Se.*

Mary Page Bailey, Esq., Department of Justice, Wilmington, Delaware. Attorney
for Unemployment Insurance Appeal Board.

*Upon Consideration of Appellant's Appeal From
Decision of Unemployment Insurance Appeal Board*

AFFIRMED

VAUGHN, President Judge

Snyder v. Quicksilver Trucking, et al.

C.A. No. 06A-006-003

January 31, 2007

ORDER

Upon consideration of the parties' briefs and the record of the case, it appears that:

1. Richard Snyder ("claimant") is appealing a decision of the Unemployment Insurance Appeal Board ("Board"). Claimant began working for Quicksilver Trucking ("employer") on August 29, 2005. He worked there until October 28, 2006, when he left for medical reasons. When he did not return or present proper medical documentation, he was replaced.

2. Upon notice of his termination, claimant filed for unemployment benefits. The Claims Deputy decided that the claimant had abandoned his job when he did not present medical documentation to his employer. The Claims Deputy further found that claimant left his job for personal reasons and denied the claim for benefits.

3. Claimant appealed the Claims Deputy's decision to the Appeals Referee. The Appeals Referee affirmed the decision of the Claims Deputy, stating that the claimant voluntarily quit without good cause attributable to work. The decision was dated February 7, 2006. The Appeals Referee's decision was sent to the claimant with a notice on the front page stating that he had ten days to appeal the decision to the Unemployment Insurance Appeal Board.

4. On February 21, 2006 claimant filed an appeal with the Superior Court of Delaware instead of filing with the Unemployment Insurance Appeal Board.

5. The Board secretary sent claimant a letter dated April 7, 2006 stating that the claimant needed to withdraw his appeal from the Superior Court and then file an appeal with the Board. The letter also illustrated the correct appeal process, noting

Snyder v. Quicksilver Trucking, et al.

C.A. No. 06A-006-003

January 31, 2007

that claimant must appeal to the Board before appealing to the Superior Court.

6. On April 28, 2006 claimant withdrew his appeal in the Superior Court and filed an appeal with the Board. The Board denied claimant's application for further review because claimant did not file his appeal to the Board within the ten day time period. The Board held that they have the authority under 19 *Del. C.* § 3320 to accept the appeal *sua sponte* when severe circumstances are present. However, the Board did not find there to be any and denied claimant's application. Claimant now appeals the decision of the Board to the Superior Court.

7. The limited function of this Court in reviewing an appeal from the Unemployment Insurance Appeal Board is to determine whether the Board's decision is supported by substantial evidence and free from legal error.¹ The appellate court does not weigh the evidence, determine questions of credibility of the witnesses, the weight to be given to their testimony, and the inferences to be drawn from them.² The court merely determines if the evidence is legally adequate to support the agency's factual findings.³

8. This Court has jurisdiction to determine whether or not the Board abused its discretion by deciding not to hear claimant's appeal.⁴ "In reviewing the Board's

¹ *Oceanport Industries, Inc. v. Wilmington Stevedores, Inc.*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. Ct. 1986), *appeal dismissed*, 515 A.2d 397 (Del. 1986).

² *Behr v. Unemployment Insurance Appeal Board*, 1995 WL 109026 (Del. Super.).

³ 29 *Del. C.* § 10142(d).

⁴ *Finocchiaro v. Panco Mgmt.*, 2006 Del. Super. LEXIS 419.

Snyder v. Quicksilver Trucking, et al.

C.A. No. 06A-006-003

January 31, 2007

exercise of discretion the Court looks to the standards set forth in Superior Civil Court Rule 60(b) as there is not a Board regulation or rule defining excusable neglect.”⁵ Under Rule 60, a claimant may receive relief from a final judgment where there is excusable neglect.⁶ Excusable neglect requires more than a showing of mere carelessness or negligence, but neglect which may have been the act of a reasonably prudent person under the circumstances.⁷ Claimant’s appeal was filed over a month late. Claimant has offered no reason for the untimely filing of his appeal or for filing with the wrong entity. Claimant received notice of his appeal rights, which included where and when to file an appeal.

9. The Board did not abuse its discretion when it denied claimant’s application for appeal as claimant did not act as a reasonably prudent person under the circumstances.

10. Accordingly, the decision of the Board is **affirmed**.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.

President Judge

oc: Prothonotary
cc: Order Distribution
File

⁵ *Id.* at *11, citing *Mullins v. Dover Downs, Inc.*, 1998 WL 278402 (Del. Super.), at *2.

⁶ Super. Ct. Civ. R. 60.

⁷ *Finocchiaro*, 2006 Del. Super. LEXIS 419, citing *Cohen v. Brandywine Racing Assoc.*, 238 A.2d 320, 325 (Del. Super. Ct. 1968).